

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 103

Introduced by Senator Ducheny

January 19, 2005

An act to amend Sections 1212 and 1218.1 of the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 103, as amended, Ducheny. Primary care clinic licensing: timing.

Existing law generally provides for the licensure of clinics and specialty clinics by the State Department of Health Services.

Existing law requires any person, firm, association, partnership, or corporation desiring a license for a health clinic or a special permit for special health services to file with the department a verified application on forms prescribed and furnished by the department, containing specified information, including any information as may be required by the department, including, but not limited to, evidence that the clinic has a written policy relating to the dissemination to patients of a summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles, a listing of child passenger restraint system programs located within the county, and information describing the risks of death or serious injury associated with the failure to utilize a child passenger restraint system.

~~This bill would eliminate the requirement that the clinic include within its application the above described items relating to child passenger restraints.~~

~~The bill would also prohibit the department from requesting additional documents or information of the applicant beyond those expressly required by state or federal law relating to the licensure or certification of the applicant.~~

This bill would authorize a clinic to satisfy those requirements by reproducing for distribution materials provided by the Department of the California Highway Patrol that describe the risks of injury or death as a result of failing to utilize passenger restraints for infants and children, and materials developed by the county health department. This bill would declare that these requirements are met if the materials are requested, but not received.

Existing law provides that a primary care clinic that has held a valid, unrevoked, and unsuspended license for at least the immediately preceding 5 years, with no demonstrated history of repeated or uncorrected violations of clinic licensure provisions or any regulation adopted under these provisions that pose immediate jeopardy to a patient, and that has no pending action to suspend or revoke its license, may file an application to establish an affiliate clinic at an additional site. Existing law requires the department, upon receipt of the completed application, to approve a license for the affiliate clinic, without the necessity of first conducting an initial onsite survey, if certain conditions are met.

Existing law requires the department to issue a license within 30 days of receipt of a completed application. If the department determines that an applicant does not meet the required conditions, existing law requires the department to identify the grounds for that determination and process the application and either grant or deny a license or special permit within 100 days of the filing.

This bill would provide that when the department determines that an applicant does not meet the required conditions for expedited affiliate clinic licensure, identifies the grounds for that determination, and processes the application within 100 days of the filing, the time period for approval or denial of the application would commence on the original date upon which ~~the a complete application was received by~~ *is filed with* the department's consolidated applications unit.

The bill would require an applicant for an expedited affiliate clinic licensure to submit an affidavit stating that the application meets required criteria, and would prohibit the department from requiring a particular form of affidavit.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California's primary care clinics are essential partners with
4 the state in providing a health care safety net for underserved,
5 uninsured, and underinsured populations in a cost-effective
6 manner.

7 (b) California's primary care clinics generate significant
8 savings to the state and to local communities by providing
9 primary and preventive care that responds to patients' needs
10 before medical problems become serious or life-threatening, and
11 by reducing the reliance of patients, including the uninsured and
12 underinsured, on costly emergency room care, inpatient
13 treatment, and specialty care.

14 (c) Primary care clinics operate most similarly to private
15 doctors' offices, but are required to comply with complicated,
16 burdensome regulations more suited to hospitals, skilled nursing
17 facilities, and other facilities intended to meet the 24-hour care
18 needs of medically fragile patients.

19 (d) The need for primary care clinics is growing dramatically
20 due to the continuing increase in uninsured and underinsured
21 patients in California, an escalating unemployment rate, and a
22 severely depressed economy.

23 (e) The current system of licensing primary care clinics is out
24 of step with the regulatory requirements for other outpatient
25 health care delivery systems, such as physicians' offices, and
26 results in the licensing process operating as a barrier, creating an
27 uneven playing field for poor patients whose practitioners must
28 go through significant costly regulatory hoops, while
29 practitioners serving more affluent patients do not, exacerbating
30 an abysmal access problem in this state.

31 (f) This act is intended to even the playing field and make the
32 regulatory requirements for nonprofit primary care clinics fairer
33 and more consistent with a physician's office practice.

34 (g) This act is intended to increase the availability of primary
35 care services and the ability of patients to access those services
36 through an aggressive streamlining of administrative burdens
37 associated with the licensure process.

1 SEC. 2. Section 1212 of the Health and Safety Code is
2 amended to read:

3 1212. (a) Any person, firm, association, partnership, or
4 corporation desiring a license for a clinic or a special permit for
5 special services under the provisions of this chapter, shall file
6 with the department a verified application on forms prescribed
7 and furnished by the department, containing the following:

8 (1) Evidence satisfactory to the department that the applicant
9 is of reputable and responsible character. If the applicant is a
10 firm, association, partnership, trust, corporation, or other
11 artificial or legal entity, like evidence shall be submitted as to the
12 members, partners, trustees or shareholders, directors, and
13 officers thereof and as to the person who is to be the
14 administrator of, and exercise control, management, and
15 direction of the clinic for which application is made.

16 (2) If the applicant is a partnership, the name and principal
17 business address of each partner, and, if any partner is a
18 corporation, the name and principal business address of each
19 officer and director of the corporation and name and business
20 address of each stockholder owning 10 percent or more of the
21 stock thereof.

22 (3) If the applicant is a corporation, the name and principal
23 business address of each officer and director of the corporation,
24 and where the applicant is a stock corporation, the name and
25 principal business address of each stockholder holding 10 percent
26 or more of the applicant's stock and, where any stockholder is a
27 corporation, the name and principal business address of each
28 officer and director of the corporate stockholder.

29 (4) Evidence satisfactory to the department of the ability of the
30 applicant to comply with the provisions of this chapter and rules
31 and regulations promulgated under this chapter by the
32 department.

33 (5) The name and address of the clinic, and if the applicant is
34 a professional corporation, firm, partnership, or other form of
35 organization, evidence that the applicant has complied with the
36 requirements of the Business and Professions Code governing the
37 use of fictitious names by practitioners of the healing arts.

38 (6) The name and address of the professional licentiate
39 responsible for the professional activities of the clinic and the
40 licentiate's license number and professional experience.

(7) The class of clinic to be operated, the character and scope of advice and treatment to be provided, and a complete description of the building, its location, facilities, equipment, apparatus, and appliances to be furnished and used in the operation of the clinic.

(8) Sufficient operational data to allow the department to determine the class of clinic that the applicant proposes to operate and the initial license fee to be charged.

(9) Any other information as may be required by the department for the proper administration and enforcement of this chapter, *including, but not limited to, evidence that the clinic has a written policy relating to the dissemination of the following information to patients:*

(A) A summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles.

(B) A listing of child passenger restraint system programs located within the county, as required by Section 27360 or 27362 of the Vehicle Code.

(C) Information describing the risks of death or serious injury associated with the failure to utilize a child passenger restraint system.

(10) A clinic may satisfy the requirements of paragraph (9) by reproducing for distribution materials specified in Section 27366 of the Vehicle Code, describing the risks of injury or death as a result of failing to utilize passenger restraints for infants and children, as provided, without charge, by the Department of the California Highway Patrol, and material that is developed by the county health department. A clinic that was not provided with these materials, but demonstrates that it has made a written request to the Department of the California Highway Patrol and the county health department for the materials, is in compliance with this paragraph.

(b) (1) No application is required where a licensed primary care clinic adds a service that is not a special service, as defined in Section 1203, or any regulation adopted thereunder, or remodels or modifies an existing primary care clinic site. However, the clinic shall notify the department, in writing, of the change in service or physical plant no less than 60 days prior to adding the service or remodeling or modifying an existing

1 primary care clinic site. Nothing in this subdivision shall be
2 construed to limit the authority of the department to conduct an
3 inspection at any time pursuant to Section 1227, in order to
4 ensure compliance with, or to prevent a violation of, this chapter,
5 or any regulation adopted under this chapter.

6 (2) Where applicable city, county, or state law obligates the
7 primary care clinic to obtain a building permit with respect to the
8 remodeling or modification to be performed by the clinic, the
9 primary care clinic shall provide a signed certification or
10 statement as described in Section 1226.3 to the department
11 within 60 days following completion of the remodeling or
12 modification project covered by the building permit.

13 (c) In the course of fulfilling its obligations under Section
14 1221.09, the department shall ensure that any application form
15 utilized by a primary care clinic, requiring information of the
16 type specified in paragraph (1), (4), (8), or (9) of subdivision (a),
17 is consistent with the requirements of Section 1225, including the
18 requirement that rules and regulations for primary care clinics be
19 separate and distinct from the rules and regulations for specialty
20 clinics. Nothing in this section shall be construed to require the
21 department to issue a separate application form for primary care
22 clinics.

23 ~~(d) The department shall not request additional documents or~~
24 ~~information of the applicant beyond those expressly required by~~
25 ~~this chapter or applicable federal law relating to the licensure or~~
26 ~~certification of the applicant.~~

27 SEC. 3. Section 1218.1 of the Health and Safety Code is
28 amended to read:

29 1218.1. (a) A primary care clinic that has held a valid,
30 unrevoked, and unsuspended license for at least the immediately
31 preceding five years, with no demonstrated history of repeated or
32 uncorrected violations of this chapter or any regulation adopted
33 under this chapter that pose immediate jeopardy to a patient, as
34 defined in subdivision (d), and that has no pending action to
35 suspend or revoke its license, may file an application under this
36 section to establish a primary care clinic at an additional site,
37 which shall hereafter be referred to as the affiliate clinic. The
38 department, upon receipt of the completed application, shall
39 approve a license for the affiliate clinic, without the necessity of

1 first conducting an initial onsite survey, if all of the following
2 conditions are met:

3 (1) The existing primary care clinic, which shall hereafter be
4 referred to as the parent clinic, has submitted a completed
5 application for licensure for the affiliate clinic and the associated
6 application fee.

7 (2) The parent and affiliate clinics' corporate officers, as
8 specified in Section 5213 of the Corporations Code, are the same.

9 (3) The parent and affiliate clinics are both owned and
10 operated by the same nonprofit organization with the same board
11 of directors.

12 (4) The parent clinic has submitted evidence to the department
13 establishing compliance with the minimum construction
14 standards of adequacy and safety of the affiliate clinic's physical
15 plant pursuant to subdivision (b) of Section 1226.

16 (b) The department shall approve or deny a license under this
17 section within 30 days of receipt of a completed application. If
18 approved, a license shall be issued within seven days of approval.
19 If the department determines that an applicant does not meet the
20 conditions stated in subdivision (a) and denies expedited
21 processing of the application under this section, it shall identify,
22 in writing and with particularity, the grounds for that
23 determination, and shall instead process the application in
24 accordance with the time specified in Section 1218. Under these
25 circumstances, the time period for approval or denial of the
26 application under Section 1218 shall be deemed to commence on
27 the original date upon which ~~the~~ a completed application ~~was~~
28 ~~received by~~ *is filed with* the department's consolidated
29 applications unit.

30 (c) Nothing in this section shall prohibit the department from
31 conducting a licensing inspection at any time after receipt of the
32 completed application. ~~The department shall not request~~
33 ~~additional documents or information of the applicant beyond~~
34 ~~those expressly required by this chapter or applicable federal law~~
35 ~~relating to the licensure or certification of the applicant.~~

36 (d) An applicant for expedited licensure under this section
37 shall submit an affidavit, which may be based on information and
38 belief, stating that the application meets the criteria set forth in
39 subdivision (a). The department shall not require a particular
40 form of affidavit.

1 (e) For purposes of this section, “immediate jeopardy to a
2 patient” means a situation in which the clinic’s noncompliance
3 with one or more requirements of licensure has caused, or is
4 likely to cause, serious injury, harm, impairment, or death to a
5 patient.

O